

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

07 CR. 1111 (VM)

RANDY HIGHTOWER.

Affidavit

Defendant.

-----X

State of New York)
) ss.:
County of Kings)

RANDY HIGHTOWER, being duly sworn, deposes and says:

1. I am the defendant in the above-captioned case in which I have been charged with possessing a firearm after having been previously convicted of a crime punishable by a term of imprisonment exceeding one year (18 U.S.C. § 922(g)(1)) (“felon in possession”).

2. This affidavit is submitted in support of my motion to suppress the evidence that the Government alleges was recovered from my jacket and from the ground near the scene of my arrest, 1020 Summit Avenue, Bronx, New York.

3. As will be discussed in greater detail below, my arrest and the search of my person on November 11, 2007, were effected without a warrant, without consent, and without reasonable suspicion or probable cause. The property that was subsequently recovered by the police in this case must be suppressed due to the unlawful arrest and search.

The Illegal Arrest and Search.

4. At approximately 6:15 in the evening on November 11, 2007, I was standing on the sidewalk in front of 1020 Summit Avenue. 1020 Summit Avenue's main entrance is a hallway that leads to an interior courtyard that one must enter prior to entering the building. I was standing to the right of the entrance to the courtyard on the sidewalk near the street.

5. I was wearing a black hooded sweatshirt, a black t-shirt and a pair of blue jeans and I was standing with my hands in my pockets. At no time did I behave in any way that might have been perceived as being suspicious or threatening.

6. As I was standing on the public sidewalk, I was approached by two officers who ordered me to remove my hands from my pockets and raise them. The female officer then asked me what I was doing there. I tried to explain that my grandmother lived across the street.

7. Before I could fully explain, the female officer demanded that I freeze and put my hands up. She also drew her weapon and aimed it at me. I was confused because my hands were already up and I became fearful for my life.

8. At that point I ran away from the officers and toward the entrance to the building, allegedly dropping my cell phone and a handgun.

9. The police officers chased me and one of them attempted to handcuff me. At that point, I again broke away and was detained by a third officer that I had not seen previously. According to the police report, I allegedly stated that I was "not going back." After I was illegally arrested, I allegedly made a number of other statements.

CONCLUSION

Based upon the facts alleged above and the accompanying memorandum of law submitted by my attorney, I respectfully request that (1) the weapon and all other evidence recovered by the police on November 11, 2007, be suppressed, and (2) the statements attributable to me be suppressed. In the alternative, I respectfully request an evidentiary hearing to address the issues raised by the instant motion to suppress.

Dated: Brooklyn, New York
April 10, 2008

R. Hightower
Randy Hightower

Sworn to before me this
10 day of April, 2008.

[Signature]
Notary Public

EILEEN M. PENTA
NOTARY PUBLIC, State of New York
Reg. No. 01PE6079403
Qualified in New York County
My Commission Expires

8/26/10